



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Telecommunications and**  
**Information Administration**  
Washington, D.C. 20230

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December 9, 1999

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

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DEC 9 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: In the Matter of Extending Wireless Telecommunications Services to Tribal  
Lands - WT Docket No. 99-266.

Dear Ms. Salas:

Enclosed please find an original and four copies of the Reply Comments from the  
National Telecommunications and Information Administration in the above-captioned  
proceeding.

Please direct any questions you may have regarding this filing to the undersigned. Thank  
you for your cooperation.

Respectfully submitted,

Kathy D. Smith  
Acting Chief Counsel

Enclosures

File in 2000 as rec'd 024  
1-24-2000

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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**DEC 9 1999**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

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Extending Wireless

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Telecommunications Services

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To Tribal Lands

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WT Docket No. 99-266

**REPLY COMMENTS OF THE NATIONAL TELECOMMUNICATIONS  
AND INFORMATION ADMINISTRATION**

The National Telecommunications and Information Administration (NTIA), an Executive Branch agency within the Department of Commerce, is the President's principal adviser on domestic and international telecommunications policy, including policies relating to the Nation's economic and technological advancements in telecommunications. Accordingly, NTIA makes recommendations regarding telecommunications policies and presents Executive Branch views on telecommunications matters to the Congress, the Federal Communications Commission (Commission), and the public. NTIA, through the Office of Spectrum Management, is also responsible for managing the Federal Government's use of the radio frequency spectrum. NTIA respectfully submits the following Reply Comments in response to the Commission's Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding.<sup>1</sup>

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<sup>1</sup> *Extending Wireless Telecommunications Services To Tribal Lands*, WT Docket No. 99-266, Notice of Proposed Rulemaking, FCC 99-205 (rel. August 18, 1999) (hereinafter "NPRM").

## I. INTRODUCTION

NTIA applauds the Commission in its efforts to identify potential terrestrial wireless and satellite policy initiatives to address the telecommunications needs of Indians living on tribal lands and to consumers in other unserved areas.<sup>2</sup> NTIA further commends the Commission's efforts through this proceeding to secure for consumers living on tribal lands and other unserved areas the same opportunities to take advantage of telecommunications capabilities that are available to other Americans.

NTIA believes telecommunications services such as those offered by terrestrial wireless and satellite technologies should be available and affordable to consumers living on tribal lands and other unserved areas comparable in quality to those offered to other Americans. It is also recognized that many tribal lands, particularly those in the western United States, are geographically isolated and would significantly benefit from capabilities offered by terrestrial wireless and satellite technologies. Any telecommunications service proposed to satisfy these needs requires a service provider, infrastructure, and subscriber equipment. The continuing need for these services on the tribal lands and unserved areas indicates that initial emphasis must be given to identifying and offering varying degrees of incentives to attract service providers and stimulate infrastructure development. Furthermore, providing comparable services to the tribal lands and unserved areas as those offered in urban America would allow these users to benefit from economies of scale in subscriber equipment. Offering similar telecommunications services that cover the tribal lands, unserved areas and urban areas creates an environment with

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<sup>2</sup> The terms "Indians," "Indian tribes," "tribal lands," and "unserved areas" are used here in the same manner as defined by the Commission in the NPRM. *See e.g.*, NPRM at ¶ 1, nn. 1, 2, 4.

ubiquitous service, which will benefit all users.

**II. LICENSING IN SPECTRUM BANDS ALLOCATED TO OTHER SERVICES COULD LEAD TO SERIOUS PROBLEMS IN THE ESTABLISHED U.S. SPECTRUM ALLOCATION PROCESS.**

The Commission seeks comments on whether there are unused channels in otherwise allocated and licensed spectrum that may be available to provide telephone service to tribal lands and other unserved areas.<sup>3</sup> NTIA believes that while special cases may arise where a localized spectrum reallocation may be practical and achievable through close coordination between the Commission and NTIA, a general rule change as proposed in this NPRM is both unnecessary and would lead to a serious problem in the established domestic spectrum allocation process. NTIA believes that spectrum congestion is not the issue and offering to reallocate spectrum specifically in a given geographical region that is currently allocated to other spectrum uses only serves to unnecessarily complicate the spectrum allocation process. Providing alternate or different spectrum for the same service only serves to differentiate the tribal lands system from similar systems offered to the major urban areas of America. Offering a different system or service than those proliferating in other areas of the country has the effect of isolating the user, restricting the ability to roam, and preventing system enhancements as they are developed for use in the major market areas.

**III. DROP-IN LICENSES COULD NEGATIVELY AFFECT THE MANAGEMENT OF FREQUENCY BANDS SHARED BETWEEN GOVERNMENT AND NON-GOVERNMENT ENTITIES, WHILE NOT PROVIDING GREAT BENEFIT TO TRIBES.**

The Commission also seeks comment regarding a proposed rule change that would allow

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<sup>3</sup> See NPRM at ¶ 44.

carriers to "drop-in" licenses on unused frequencies, which would be afforded rights of non-interference.<sup>4</sup> NTIA and the Commission have historically worked together to maximize the sharing of compatible services. NTIA believes that sharing spectrum, even in geographically remote areas such as tribal lands, can, in some cases, permit the introduction of services on frequencies that would otherwise go unused. As proposed by the Commission, however, the drop-in licenses might be designated as having an allocation making it the primary user of the band. This approach could detrimentally affect critical Government operations, which include safety of life, national security and defense, law enforcement, and radio astronomy. If co-primary status is afforded to the drop-in licenses, these Government operations may need to be eliminated, significantly curtailed, or relocated at a substantial cost to taxpayers. NTIA recommends that with respect to bands shared between Government and non-Government entities, drop-in licenses should be considered only on a secondary basis to existing Government operations.

Moreover, as NTIA noted with respect to the Commission's proposal to reallocate unused channels,<sup>5</sup> the approach may serve only to differentiate and isolate systems on tribal lands from systems offered to other areas of the country. While in the short term the introduction of any service would provide the benefits of telecommunications to the tribal population, in the long term it may prevent these areas from enjoying the benefits of other, more widely used systems, available now or in the future. Thus, NTIA believes that while drop-in licenses may be useful

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<sup>4</sup> *Id.* at ¶ 45.

<sup>5</sup> *See* Section II, *supra*.

under some limited conditions, the approach does not provide the best solution for wide scale introduction of services into tribal lands.

**IV. IT IS INAPPROPRIATE TO ADDRESS LIFTING RESTRICTIONS ON EARTH STATION APPLICATIONS IN THE EXTENDED C-BAND WITHIN THIS PROCEEDING.**

Titan Wireless submitted comments recommending that the Commission lift the ban on accepting extended C-band (3625-3700 MHz (space-to-Earth), 5850-5925 MHz (Earth-to-space)) earth station applications.<sup>6</sup> NTIA believes that it is inappropriate to address lifting the restrictions on acceptance of earth station applications in extended C-band within this proceeding. The 3625-3650 MHz and 5850-5925 MHz bands are allocated to the Federal Government on a primary basis for critical military radar operations, and therefore, it is inappropriate to address expanded earth station operations in this proceeding. Moreover, the 3650-3700 MHz band segment was transferred from the Federal Government on January 1, 1999, in accordance with the Omnibus Budget Reconciliation Act of 1993.<sup>7</sup> NTIA believes that this issue would be more appropriately addressed in the context of the Commission's implementation of OBRA 1993 and amendment of relevant footnotes to the National Table of Allocations.

**V. ISSUES RELATED TO THE BANDS IN THE 3.4-3.7 GHz FREQUENCY RANGE SHOULD NOT BE ADDRESSED IN THIS PROCEEDING.**

One group of joint commenters proposed the use of the 3.4-3.7 GHz band for wireless local loop (fixed wireless access) technologies on tribal lands and other unserved areas. The

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<sup>6</sup> See Comments of Titan Wireless, WT Dkt. No. 99-266, at 8 (November 9, 1999).

<sup>7</sup> Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 31 (1993) ("OBRA 1993").

joint commenters urge the Commission to work with NTIA and the Department of Defense (DoD) to address any concerns preventing the Commission from releasing a pending petition for allocation of the 3.4-3.7 GHz band for fixed wireless access (FWA).<sup>8</sup> NTIA agrees with the Commission's acknowledgment that this MHz band is the subject of a separate open proceeding and therefore should not be addressed within this rulemaking.<sup>9</sup>

**VI. COMMERCIAL SERVICES OPERATING ADJACENT TO BANDS ALLOCATED FOR PUBLIC SAFETY SERVICES MUST PROVIDE ADEQUATE ADJACENT BAND PROTECTION.**

Bell Atlantic Mobile, Inc., submitted comments recommending that the Commission license the 746-764 and 776-794 MHz bands for "third generation" terrestrial mobile services.<sup>10</sup> The 746-764 and 776-794 MHz bands are adjacent to the bands 764-776 and 794-806 MHz allocated in accordance with the Balanced Budget Act of 1997 for public safety services. The 764-776/794-806 MHz bands are to be used by State, Local, and Federal law enforcement, fire, medical and other public safety emergency services, which by their very nature operate throughout the United States as well as in close proximity to tribal and unserved areas.<sup>11</sup> The

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<sup>8</sup> See Joint Comments of the Salt River Pima-Maricopa Indian Community and the National Tribal Telecommunications Alliance, WT Dkt. No. 99-266, at 15 (November 9, 1999).

<sup>9</sup> NPRM at n. 33. The bands within the 3.4-3.65 GHz frequency range are allocated to the Federal Government on a primary basis for land based, airborne, and shipborne military radar systems that are critical for national defense. There is an ongoing study within the DoD to examine the compatibility of the military radars with various fixed wireless access technologies in the 3.4-3.65 GHz frequency range.

<sup>10</sup> See Comments of Bell Atlantic Mobile Inc., WT Docket No. 99-266, at 4 (November 9, 1999).

<sup>11</sup> Federal Government agencies are considered authorized users of the channels in the 764-776 and 794-806 MHz bands. See *Development of Operational, Technical and Spectrum*

Commission has recognized the need to ensure the availability and reliability of spectrum used for public safety.<sup>12</sup> However, cases of interference between a commercial service operating adjacent to public safety bands in the 800 MHz frequency range have been reported.<sup>13</sup> The adjacent band emission limits for transmitters operating in the 746-764/776-794 MHz band are currently being addressed in a separate proceeding and should not be addressed here.<sup>14</sup> NTIA urges the Commission to take steps to ensure that potential commercial users of the spectrum adjacent to the 700 MHz public safety spectrum will not interfere with State, Local, and Federal law enforcement, fire, medical support, and other public safety emergency services.

**VII. IN THE ABSENCE OF INTERFERENCE STUDIES SECTION 15.247(h) SHOULD NOT BE MODIFIED TO PERMIT COORDINATION OF FREQUENCY HOPPING SYSTEMS.**

The comments submitted by Innowave ECI Wireless System Ltd., recommend that for unlicensed spread spectrum frequency hopping systems the Commission should modify Section 15.247(h) to permit the coordination of hopping frequencies on tribal lands.<sup>15</sup> The Commission adopted this explicit rule against coordinated hopping to protect against interference to other

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*Requirements for Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010*, First Report and Order and Third Notice of Proposed Rulemaking, WT Dkt. No. 96-86, 14 F.C.C. Rcd. 152, at Appendix E-1 (1998).

<sup>12</sup> NPRM at ¶ 18.

<sup>13</sup> Public Safety Communications, *Spectrum Interference: Some Historical Perspectives*, (May 1999), at 14.

<sup>14</sup> *See Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules*, Notice of Proposed Rulemaking, WT Dkt. No. 99-168, 14 F.C.C. Rcd. 11006 (1999).

<sup>15</sup> *See Comments of Innowave ECI Wireless System Ltd.*, WT Dkt. No. 99-266, at 2 (November 9, 1999) ("Innowave Comments").



radio users.<sup>16</sup> The only protection from interference proposed by the commenter is that in the sparsely populated tribal lands there are generally no other radio users.<sup>17</sup> However, all of the bands where Part 15 spread spectrum systems are permitted to operate and where Section 15.247(h) is applicable are also allocated to the Federal Government on a primary or secondary basis. The Federal Government systems that operate in these bands operate on military facilities that can be in close proximity to tribal lands and other unserved areas. To reduce the probability that spread spectrum systems will cause interference to other services, the hopping frequencies must be chosen pseudorandomly. In the absence of any studies examining the potential increase in interference that could result from the coordination of hopping frequencies, NTIA opposes relaxation of 15.247(h).

## **VIII. CONCLUSION**

NTIA urges the Commission to consider carefully the issues raised in these Reply Comments in an effort to promote development and implementation of telecommunications services for individuals living on tribal lands and other unserved areas, while retaining the existing spectrum allocation process and the integrity of the services supported by it.

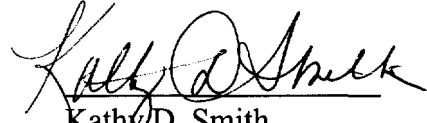
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<sup>16</sup> *Amendment of Parts 2 and 15 of the Commission's Rules Regarding Spread Spectrum Transmitters*, Report and Order, ET Docket No. 96-8, 12 F.C.C. Rcd. 7488 (1997).

<sup>17</sup> Innwave Comments at 11.

For the foregoing reasons, NTIA respectfully submits these Reply Comments.

Respectfully submitted,



Kathy D. Smith  
Acting Chief Counsel

The Honorable Gregory L. Rhode  
Assistant Secretary for  
Communications and Information

William Hatch  
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